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EXTRAORDINARY

PART II—Section 3

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No. 72] NEW DELHI, TUESDAY, MARCH 30, 1954

ELECTION COMMISSION, INDIA

NOTIFICATION

New Delhi, the 16th March 1954

S.R.O. 1029.—Whereas the election of Shri Kanwar Tej Singh, as a member of the Legislative Assembly of the State of Rajasthan, from the Amber 'A' constituency of that Assembly, has been called in question by an Election Petition duly presented under Part VI of the Representation of the People Act, 1951 (XLIII of 1951), by Shri Lallu Chand s/o Shri Chhagan Lal, Pleader, resident of Bhulera, District Jaipur;

And whereas the Election Tribunal appointed by the Election Commission in pursuance of the provisions of Section 86 of the said Act for the trial of the said Election Petition has, in pursuance of the provisions contained in section 103 of the said Act, sent a copy of its order to the Commission;

Now, therefore, in pursuance of the provisions of section 106 of the said Act the Election Commission hereby publishes the said Order of the Tribunal.

IN THE ELECTION TRIBUNAL, JAIPUR

ELECTION PETITION No. 280/12 OF 1952

Shri Lallu Chand—Petitioner.

Versus

Kr. Tej Singh and Others—Respondents.

PRESENT:

The Hon'ble Mr. Justice K. K. Sharma, *Chairman.*

Mr. A. N. Kaul, *Member.*

Mr. P. L. Shome, *Member.*

Mr. B. L. Lohadia for the petitioner.

Mr. C. L. Agrawal for Respondent No. 1, Kr. Tej Singh.

ORDER

Dated the 31st July 1953

(PER HON'BLE JUSTICE SHARMA, CHAIRMAN, AND SHRI KAUL, MEMBER)

Lallu Chand, petitioner in this election petition, was a candidate for election to the Rajasthan Legislative Assembly from the Amber "A" Constituency. His nomination paper was rejected by the Returning Officer at the scrutiny and he has thereupon filed this election petition on the ground that his nomination paper was improperly rejected and that such rejection has materially affected the result of the election.

Respondent No. 1 Kumar Tej Singh, (hereinafter referred to as the contesting respondent) is the returned candidate, and he alone contests the petition. The other respondents, though duly served, have not appeared before the Tribunal. The contesting respondent at the outset raised a preliminary objection to the effect that the Tribunal was not properly constituted. The said objection was taken up as a preliminary issue, and after hearing the learned counsel for both the parties and the learned Advocate General of the State of Rajasthan under section 89 of the Representation of the People Act, 1951 (hereinafter referred to as the Act), the Tribunal, on the 21st January, 1953, overruled the said objection. The judgment on the said preliminary objection is appended hereto as Annexure "A".

The contesting respondent filed a written statement traversing the pleas raised in the election petition and raising some additional pleas on which he submitted that the nomination paper of the petitioner had been rightly rejected, and ought to have as well been rejected on the additional grounds mentioned in his additional pleas. The nature of the pleas need not be narrated here *in extenso*, as they will be evident from the issues framed in the case, which are as follows:—

ISSUES

- No. 1. Was the nomination paper of the petitioner improperly rejected on the ground that he did not strike off the words "House of the People" (Lok Sabha) from the list of the four Houses given at the top of the nomination paper?
- No. 2. If so, was the result of the election materially affected by this rejection?
- No. 3. Whether the signatures of the proposer and the seconder of the nomination paper are not genuine? If so, what is its effect upon the election petition?
- No. 4. Whether Shri Nahar Singh and Thoraji were necessary parties to the Petition? If so, what is the effect of their not being made parties to the petition on the election petition?
- No. 5. Whether the election petition was not presented within the time prescribed by Rule 119 of the Representation of the People (Conduct of Elections and Election Petitions) Rules, 1951? If so, what is its effect?
- No. 6. Whether there were three parts of the electoral roll of Phulera town and the serial number 178 appeared in each of them? If so, what is the effect upon the election petition of the omission of any further description of the electoral roll, besides the description—"Phulera Town"?
- No. 7. Whether the nomination paper was invalid on account of the fact that no separate writing was made about the appointment of an election agent apart from the declaration signed in the nomination paper? If so, what is its effect?
- No. 8. Whether the objections giving rise to issues Nos. 3, 6 and 7 can be taken in these proceedings when they did not form the ground of rejection of the petitioner's nomination paper by the Returning Officer?

Out of the above-mentioned issues, the issues Nos. 4, 5 and 6, which were raised at the instance of the contesting respondent, were given up and not pressed by his learned counsel at the time of the arguments. Issue No. 8, raised at the instance of the petitioner, was also not pressed. So these issues need not be considered. Issues Nos. 1, 2, 3 and 7, only therefore, remain for consideration.

We shall deal with issues Nos. 1 and 2 first and then with issue No. 7, and lastly with issue No. 3, which is the most hotly contested issue in the case.

ISSUE No. 1.—The Returning Officer has rejected the nomination paper of the petitioner on the ground that the candidate had failed to mention whether he was standing for the State Legislative Assembly or the House of the People, as none had been struck off.

On a reference to the original Nomination Paper Ex. P. 1, it appears that the petitioner wrote "Rajasthan" before the words "Vidhan Sabha" in the third line of the names of the four legislative bodies mentioned at the top of the Nomination Paper. The names of the three other bodies—Loka Sabha, Vidhan Parishad and Electoral College—were not struck off. But the addition of the word "Rajasthan" before "Vidhan Sabha" was sufficient indication of his intention that he was standing for the Rajasthan Vidhan Sabha, i.e., the Rajasthan Legislative Assembly